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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

16 RICHARD LEE PATTERSON,)

17 Defendant.)
18

No. CR 04-20062 RMW

PLEA AGREEMENT

19 I, Richard Lee Patterson, and the United States Attorney's Office for the Northern District
20 of California (hereafter "the government") enter into this written plea agreement (the
21 "Agreement") pursuant to Rules 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal
22 Procedure:

23 The Defendant's Promises

24 1. I agree to plead guilty to the captioned Superseding Information charging me with
25 transport and shipping of visual depictions of minors engaging in sexually explicit conduct, in
26 violation of 18 U.S.C. § 2252(a)(1). I agree that the elements of the offense and the maximum
27 penalties are as follows: (1) the defendant knowingly transported or shipped a visual depiction in
28

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1 interstate commerce by any means, including a computer, (2) the production of such visual
2 depiction involved the use of a minor engaging in sexually explicit conduct, (3) such visual
3 depiction was of a minor engaged in sexually explicit conduct, (4) the defendant knew that such
4 visual depiction was of sexually explicit conduct, and (5) the defendant knew that at least one of
5 the persons engaged in sexually explicit conduct in such visual depiction was a minor.

- | | | | |
|----|----|-----------------------------------|------------|
| 6 | a. | Mandatory minimum prison sentence | 5 years |
| 7 | b. | Maximum prison sentence | 20 years |
| 8 | b. | Maximum fine | \$ 250,000 |
| 9 | c. | Maximum supervised release term | 3 years |
| 10 | d. | Mandatory special assessment | \$ 100 |

11 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
12 the following facts are true:

13 On or about October 10, 2003, I knowingly and intentionally transported and
14 shipped by means of a computer, from San Jose, California, to Buffalo, New
15 York, a visual depiction of a minor engaged in sexually explicit conduct. At the
16 time that I sent this visual depiction, I knew that it was of sexually explicit
17 conduct, I knew that at least one of the persons engaged in sexually explicit
18 conduct in such visual depiction was a minor, and I knew that the production of
19 such visual depiction involved the use of a minor engaging in sexually explicit
20 conduct.

21 3. I agree to give up all rights that I would have if I chose to proceed to trial,
22 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
23 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
24 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
25 to pursue any affirmative defenses and present evidence.

26 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
27 the Court. I also agree to waive any right I may have to appeal my sentence.

28 5. I agree not to file any collateral attack on my conviction or sentence, including a
petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim
that my constitutional right to the effective assistance of counsel was violated.

6. I agree not to ask the Court to withdraw my guilty plea at any time after it is

1 entered.

2 7. I agree that the Sentencing Guidelines should be calculated as follows, and that I
3 will not ask for any other adjustment to or reduction in the offense level:

4	a.	Base Offense Level: U.S.S.G. § 2G2.2	17
5	b.	Specific Offense Characteristics:	
6		» Prepubescent Minors (§ 2G2.2(b)(1)):	+2
7		» Distribution of Image	+2
8		» Use of Computer to Distribute:	+2
9	c.	Acceptance of responsibility:	
9		(If I meet the requirements of U.S.S.G. § 3E1.1)	-3
10	d.	Adjusted offense level	20

11 I agree that I will not ask for departures of any kind. I agree that, regardless of any other
12 provision in this agreement, the government may and will provide to the Court and the Probation
13 Office all information relevant to the charged offenses or the sentencing decision. I also agree
14 that the Court is not bound by the Sentencing Guidelines calculations above, the Court may
15 conclude that a higher guideline range applies to me, and, if it does, I will not be entitled, nor will
16 I ask, to withdraw my guilty plea.

17 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
18 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
19 release (if any); intentionally provide false information to the Court, the Probation Office,
20 Pretrial Services, or the government; or fail to comply with any of the other promises I have
21 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
22 Agreement, then the government will be released from all of its promises in this agreement,
23 including those set forth in paragraphs 12 through 14 below, but I will not be released from my
24 guilty plea.

25 10. I agree that this Agreement contains all of the promises and agreements between
26 the government and me, and I will not claim otherwise in the future.

27 11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
28 District of California only, and does not bind any other federal, state, or local agency.

1 The Government's Promises

2 12. The government agrees to move to dismiss any open charges pending against the
3 defendant in the captioned information at the time of sentencing.

4 13. The government agrees not to file or seek any additional charges against the
5 defendant that could be filed as a result of the investigation that led to the captioned indictment.

6 14. The government agrees to recommend the Guidelines calculations set out above.

7 The Defendant's Affirmations

8 15. I confirm that I have had adequate time to discuss this case, the evidence, and this
9 Agreement with my attorney, and that he has provided me with all the legal advice that I
10 requested.

11 16. I confirm that while I considered signing this Agreement, and at the time I signed
12 it, I was not under the influence of any alcohol, drug, or medicine.

13 17. I confirm that my decision to enter a guilty plea is made knowing the charges that
14 have been brought against me, any possible defenses, and the benefits and possible detriments of
15 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
16 one coerced or threatened me to enter into this agreement.

17
18 Dated: _____

19 _____
20 RICHARD LEE PATTERSON
Defendant

21 KEVIN V. RYAN
22 United States Attorney

23 Dated: _____

24 _____
25 SHAWNA YEN
Assistant United States Attorney

1 I have fully explained to my client all the rights that a criminal defendant has and all the
2 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
3 and all the rights he is giving up by pleading guilty, and, based on the information now known to
4 me, his decision to plead guilty is knowing and voluntary.

5
6 Dated: _____

CARLEEN ARLIDGE, ESQ.
Attorney for Defendant